



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

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Date Mailed: September 12, 2018
MAHS Docket No.: 18-007874
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 6, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) Program benefits?

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On May 4, 2018, the Department received Petitioner's MA Medicare Savings Program (MSP) Redetermination as well as a new application for FAP.
2. On May 21, 2018, an interview was completed and a Verification Checklist (VCL) was mailed to Petitioner requesting verification of current asset information related to bank accounts with a due date of May 31, 2018.

3. On May 31, 2018, Petitioner's caseworker received an email with the requested verifications, but the documents were not readable and would not open; Petitioner's caseworker responded to Petitioner via email advising her at 3:19 PM and then again at 3:26 PM that she could not open the documents.
4. On June 1, 2018, the Department issued a Notice of Case Action informing Petitioner of the denial of FAP benefits effective June 1, 2018, because the Department had not received the requested bank verifications.
5. On June 4, 2018, the Department issued a Health Care Coverage Determination Notice (HCCDN) informing Petitioner that she was not eligible for MA coverage as she was "not under 21, pregnant, or a caretaker of a minor child in your home... not over 65 (aged), blind, or disabled;" page three of the notice may have included additional information about the closure as noted on the bottom of page two, "More information about your Denial/Closure," but it was not provided as evidence in the hearing.
6. On June 5, 2018, Petitioner resubmitted the documents via email to her caseworker but received no response.
7. On July 19, 2018, the Department received Petitioner's new application for FAP and MSP.
8. On July 29, 2018, Petitioner submitted the requested verifications.
9. On August 1, 2018, the Department received Petitioner's request for hearing disputing the denial of FAP benefits and closure of MA MSP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148,

as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner's FAP application was denied and continuing MA MSP benefits were closed because the Department did not receive Petitioner's requested verifications. Assets must be considered in determining eligibility for FAP and SSI-related MA programs. BEM 400 (May 2018), p. 1. MSP is a Supplemental Security Income (SSI)-related MA program. The FAP asset limit is \$5,000. BEM 400, p. 5. Effective January 1, 2018, the asset limit for MSP for a group size of one is \$7,560.00. BEM 400, p. 8. Since both programs require asset eligibility, the assets must be verified at application and/or redetermination. BAM 130 (April 2017), p. 1.

In FAP cases, the Department is required to provide the client with 10 calendar days to return the requested verification. BAM 130, p. 7. A negative action notice is sent when the client indicates a refusal to provide the verification or the time period given has elapsed but the client has not made a reasonable effort to provide it. *Id.* No extensions are provided for FAP case. *Id.*

In MA cases, the Department must allow the client 10 calendar days to provide the requested verification. BAM 130, p. 8. However, if the client is unable to provide the verification despite a reasonable effort, the time limit can be extended up to two times. *Id.* A case action notice is sent when a client refuses to provide the verification or the time period given has elapsed. *Id.*

Petitioner submitted her verifications via email on the due date. For whatever reason, the Department was unable to open the documents. Petitioner's email with the attachments constitutes a reasonable effort to provide the requested documentation to the Department; therefore, a denial of Petitioner's FAP application is not in accordance with policy as Petitioner did not refuse to comply and she had made a reasonable effort. BAM 130, p. 7.

While the reason for the closure of Petitioner's MA benefits is unclear because the notice is insufficient, it is possible that her case was closed for failure to verify her assets. Since Petitioner made a reasonable effort to provide the documentation, the Department is required to provide up to two extensions to the client in order to provide the verification. While Petitioner's caseworker's email indicates that an extension had already been provided, the hearing facilitator was unable to locate any information showing that an extension was actually provided to Petitioner. Based upon the evidence presented, the verification was requested on May 21st by May 31st and closed on June 4th. Four days is an insufficient extension of time. Therefore, the Department did not act in accordance with policy when it closed Petitioner's MA MSP benefits.

It should also be noted that the information provided on Petitioner's HCCDN from June 4, 2018, indicated she was not aged, blind, or disabled. Petitioner disputed in her hearing request the assertion that she was not disabled. Since Petitioner is a Medicare recipient, at least one of those assertions from the Department must be wrong. Furthermore, being aged, blind, or disabled are not eligibility factors for MSP. BEM 165 (January 2018). Therefore, these are not adequate reasons to close Petitioner's MA MSP benefits.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Petitioner's FAP benefits and closed Petitioner's MA benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's FAP eligibility as June 1, 2018;
2. If Petitioner is otherwise eligible for FAP benefits, issue supplements to Petitioner for benefits not previously received;
3. Reinstate and redetermine Petitioner's MA MSP benefits effective July 1, 2018;
4. If Petitioner is otherwise eligible for MSP benefits, issue supplements to Petitioner for benefits not previously received;
5. Notify Petitioner in writing of its decisions with regard to FAP and MSP benefits.



AMTM/

Amanda M. T. Marler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Susan Noel
MDHHS-Wayne-19-Hearings

Petitioner

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